



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARK
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/458,321	12/10/1999	Yong Ho Son	533/040	8721

26291 7590 04/17/2003

MOSER, PATTERSON & SHERIDAN L.L.P.
595 SHREWSBURY AVE
FIRST FLOOR
SHREWSBURY, NJ 07702

EXAMINER

SRIVASTAVA, VIVEK

ART UNIT	PAPER NUMBER
----------	--------------

2611

DATE MAILED: 04/17/2003

18

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/458,321

Examiner

Vivek Srivastava

Applicant(s)

SON ET AL.

Art Unit

2611

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED _____ FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check only a) or b)]

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
- b) ☐ In view of the early submission of the proposed reply (within two months as set forth in MPEP § 706.07 (f)), the period for reply expires on the mailing date of this Advisory Action, OR continues to run from the mailing date of the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will be entered upon the timely submission of a Notice of Appeal and Appeal Brief with requisite fees.
3. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search. (see NOTE below);
 - (b) ☐ they raise the issue of new matter. (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

4. ☐ Applicant's reply has overcome the following rejection(s): _____.
5. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
6. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.
7. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
8. ☒ For purposes of Appeal, the status of the claim(s) is as follows (see attached written explanation, if any):
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: 10-13, 15-18, 20-29.
- Claim(s) withdrawn from consideration: _____.
9. ☐ The proposed drawing correction filed on _____ a) ☐ has b) ☐ has not been approved by the Examiner.
10. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
11. ☐ Other: _____

**ANDREW FAILE****SUPERVISORY PATENT EXAMINER****TECHNOLOGY CENTER** Paper No. 18

ADVISORY ACTION

After careful review, the Examiner submits that Applicant's response does not place the application in condition for allowance, and as a result, the Applicant's arguments are not persuasive.

In particular, the Applicant argues that Shaw fails to disclose the claimed VOD. The Examiner admits Shaw does not disclose a conventional VOD system, however, Shaw does disclose requesting video which meets the broadly claimed VOD limitation. In particular, Shaw discloses a user can request publishing applications (see col 7 lines 16-59) wherein the publishing applications include video (see col 2 lines 14-16). The Examiner urges Applicant's to further define VOD to overcome the Shaw reference.

Further, the Applicant argues that the Applicant's STT tunes, downconverts and depacketizes signals in a cable network as disclosed in the specification. The Examiner respectfully submits that aforementioned is not claimed, and as a result, Applicant's arguments are not persuasive. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., set-top terminal tunes, downconverts and depacketizes) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The Applicant further argues that Utsumi fails to bridge the GAP between between the Shaw reference and the Applicant's invention. The Examiner respectfully disagrees. As discussed in the invention, Utsumi does bridge the Gap between the Shaw reference and Applicant's invention and that the two references are combinable, as a result, the Applicant's arguments are not persuasive.